

REMARKS

In response to the Restriction Requirement dated May 26, 2004, Applicants elect the invention of Group XX (claims 5-14, 39, and 42, drawn to a nucleic acid of SEQ ID NO:3 and vector and cell comprising) with traverse.

Applicants traverse the restriction requirement. The claims of Group XX are drawn to nucleic acids. Selected claims of Group LV (*i.e.*, claims 19-21) are drawn to a method of determining the presence or amount of the nucleic acid of Group XX. Applicants submit that these two groups of claims are not distinct because by detecting (claims 19-21 of Group LV) the nucleic acid (claims of Group XX), claims 19-21 become part of Group XX. Thus, Applicants submit that a search of the nucleic acid sequence of SEQ ID NO:3 (Group XX) would also identify methods of determining the presence or amount of SEQ ID NO:3 in a sample (Claims 19-21 of Group LV) and methods of determining the presence of or predisposition to a disease associated with altered levels of nucleic acid sequence SEQ ID NO:3 (New claims 50 and 51). Therefore, joinder of Group XX and Claims 19-21 of Group LV would not present a serious burden for the Examiner.

The M.P.E.P. §803.02 (Eighth Edition, August 2001, revised February 2003) states:

If the search and examination of an entire application can be made without serious search burden, the Examiner must examine it on the merit, even though it includes claims to independent and distinct inventions.

Therefore, Applicants submit that in accordance with M.P.E.P. §803.02, the claims of Group XX and claims 19-21 of Group LV should be examined together because the search and examination of these claims would not unduly burden the Examiner.

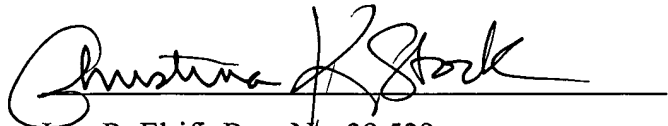
Upon entry of the present amendment, claims 5-10, 12-14, 19-21, 39, 42 and 50-51 are pending. Claims 1-4, 11, 15-18, 22-38, 40-41, 43-49 have been canceled without prejudice or disclaimer. Applicant reserves the right to prosecute that subject matter, as well as the originally presented claims, in continuing applications. Claims 5-10, 12, 14, 39, and 42 have been amended. Claims 50 and 51 are new. Support for the amendments presented herein is found

throughout the specification and claims as originally filed. Accordingly, no new matter has been added by the claim amendments presented herein.

CONCLUSION

On the basis of the foregoing amendment and remarks, Applicants respectfully submit, that the pending claims are in condition for allowance. If there are any questions regarding this amendment and/or these remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christina K. Stock", is written over a horizontal line.

Ivor R. Elrifi, Reg. No. 39,529
Christina K. Stock, Reg. No. 45,899
Attorney for Applicants
c/o MINTZ, LEVIN
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer No.: **30623**